

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

NIKE, INC.,)	
)	
Plaintiff,)	
)	Case No. 1:23-cv-2431-VM
vs.)	
)	SCHEDULING ORDER AND CASE
BY KIY LLC,)	MANAGEMENT PLAN
NICKWON ARVINGER,)	
DAVID WEEKS)	
)	
Defendants.)	
)	

This Scheduling Order and Case Management Plan is adopted in accordance with Fed. R. Civ. P. 16-26(f).

1. This case **is** to be tried by a jury.
2. Joinder of additional parties to be accomplished by¹:
 - a. Plaintiff's Proposal: May 8, 2023
 - b. Defendants' Proposal: May 8, 2023.
3. Amended pleadings may be filed without leave of the Court until:
 - a. Plaintiff's Proposal: May 8, 2023
 - b. Defendants' Proposal: N/A. All amendments should be with leave of the Court and/or by agreement.
4. Initial disclosures pursuant to Fed. R. Civ. P. 26(a)(1) to be completed within fourteen (14) days of the date of the parties' conference pursuant to Rule 26(f), specifically by no later than March 31, 2023.
5. All fact discovery is to be completed:

¹ The parties disagree on proposed deadlines for the items set forth in the Court's model Case Management Plan. For ease of reference, the parties' proposed deadlines are also included in Attachment A.

- a. Plaintiff's Proposal: Within one hundred twenty (120) days of the date of this Order, specifically by not later than: July 25, 2023
 - b. Defendants' Proposal: Within two-hundred and fifty (250) days of the date of this Order, specifically by not later than December 4, 2023.
6. The parties are to conduct discovery in accordance with the Federal Rules of Civil Procedure and the Local Rules of the Southern District of New York. The following interim deadlines may be extended by the parties on consent without application to the Court, provided the parties are certain that they can still meet the discovery completion date ordered by the Court.
 - a. Initial requests for production of documents to be served by:
 - i. Plaintiff's Proposal: April 28, 2023
 - ii. Defendants' Proposal: May 30, 2023
 - b. Interrogatories to be served by all parties by:
 - i. Plaintiff's Proposal: April 28, 2023
 - ii. Defendants' Proposal: November 1, 2023
 - c. Depositions to be completed by:
 - i. Plaintiff's Proposal: July 25, 2023
 - ii. Defendants' Proposal: December 4, 2023.
 - Unless the parties agree or the Court so orders, depositions are not to be held until all parties have responded to initial requests for document production.
 - Depositions of all parties shall proceed during the same time.
 - Unless the parties agree or the Court so orders, non-party depositions shall follow party depositions when possible.
 - d. Any additional contemplated discovery activities and the anticipated completion date: None.
 - e. Requests to admit to be served no later than:
 - i. Plaintiff's Proposal: June 6, 2023

- ii. Defendants' Proposal: November 1, 2023
 - f. Pursuant to Section IV(2) of Your Honor's Individual Practices, the parties disagree on the number and duration of depositions. The parties' positions are as follows:
 - i. Plaintiff's Proposal: No more than five fact depositions per side, no deposition exceeding six (6) hours on the record.
 - ii. Defendants' Proposal: No more than ten (10) fact depositions. Any depositions should be limited to three (3) hours in length.
 - g. The parties agree that no side will serve more than seven single-spaced pages of requests for admissions, and no side will serve more than seven single-spaced pages of interrogatories.
7. All expert discovery (ordinarily conducted following the completion of fact discovery) including parties' expert reports and depositions, witness lists and identification of documents pursuant to Fed. R. Civ. P. 26(a)(2), (3) and 35(b), is to be completed by:
- i. Plaintiff's Proposal: October 6, 2023
 - ii. Defendants' Proposal: April 15, 2024
 - b. Opening expert reports on issues for which a party bears the burden of proof are due on:
 - i. Plaintiff's Proposal: August 15, 2023
 - ii. Defendants' Proposal: January 12, 2024
 - c. Reply expert reports are due on:
 - i. Plaintiff's Proposal: September 5, 2023
 - ii. Defendants' Proposal: February 12, 2024
 - d. Rebuttal expert reports are due on:
 - i. Plaintiff's Proposal: September 19, 2023
 - ii. Defendants' Proposal: March 15, 2024
 - e. Expert depositions must be completed by:
 - i. Plaintiff's Proposal: October 6, 2023

- ii. Defendants' Proposal: April 15, 2024
- 8. Contemplated motions:
 - a. The parties contemplate filing: (i) a joint motion for entry of a protective order governing the use and disclosure of confidential information in this case; and (ii) motions for summary judgment or partial summary judgment.
- 9. Following all discovery, all counsel must meet for at least one hour to discuss settlement, such conference to be held by not later than:
 - i. Plaintiff's Proposal: October 24, 2023
 - ii. Defendants' Proposal: April 29, 2024
- 10. The parties **do not** consent to trial by a Magistrate Judge under 28 U.S.C. § 636(c).

TO BE COMPLETED BY THE COURT:

11. The next Case Management Conference is scheduled for _____.

In the event the case is to proceed to trial, a firm trial date and the deadline for submission of the Joint Pretrial Order and related documents shall be scheduled at the pretrial conference following either the completion of all discovery or the Court's ruling on any dispositive motion.

The Joint Pretrial Order should be prepared in accordance with Judge Marrero's Individual Practices. If this action is to be tried before a jury, proposed voir dire and jury instructions shall be filed with the Joint Pretrial Order. No motion for summary judgment shall be served after the deadline fixed for the Joint Pretrial Order.

SO ORDERED.

VICTOR MARRERO
U.S.D.J.

Dated: _____
New York, New York

Attachment A

Nike v. By Kiy LLC et al.
Proposed Case Schedule

Event	Plaintiff's Proposal	Defendants' Proposal
Rule 26(a)(1) Initial Disclosures	March 31, 2023	
Initial requests of production of documents to be served by	April 28, 2023	May 30, 2023
Initial Interrogatories to be served by all parties by	April 28, 2023	November 1, 2023
Amended pleadings may be filed without leave of Court until	May 8, 2023	N/A. All amendments should be with leave of the Court and/or by agreement.
Joinder of additional parties to be accomplished by	May 8, 2023	
Requests to admit to be served no later than	June 6, 2023	November 1, 2023
All fact discovery is to be completed within	One hundred twenty (120) days of the date of this Order, specifically by no later than July 25, 2023	Two-hundred and fifty (250) days of the date of this Order, specifically by not later than December 4, 2023
Fact and corporate depositions to be completed by	July 25, 2023	December 4, 2023
Opening expert reports on issues for which a party bears the burden of proof	August 15, 2023	January 12, 2024
Reply expert reports	September 5, 2023	February 12, 2024
Rebuttal expert reports	September 19, 2023	March 15, 2024
Completion of expert depositions	October 6, 2023	April 15, 2024
End of expert discovery	October 6, 2023	April 15, 2024
Following all discovery, all counsel must meet for at least one hour to discuss settlement, such conference to be held by not later than	October 24, 2023	April 29, 2024